

Exemption No. 5360

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

AIR WISCONSIN, INC.

Regulatory Docket No. 26670

**for an exemption from §§ 121.316
and 25.963(e)(2) of the Federal
Aviation Regulations**

GRANT OF EXEMPTION

By letter of October 7, 1991, Mr. Peter A. Doering, Director Maintenance Support and Mr. Kevin J. Reinhalter, Director Quality Assurance, Air Wisconsin, Inc., petitioned for exemption from § 121.316, of the Federal Aviation Regulation (FAR) to permit operation of certain BAe-ATP airplanes until January 30, 1992, with fuel tank access covers that have not been shown to comply with the fire resistance standards of § 25.963(e)(2).

Section of the FAR affected:

Part 121 prescribes rules governing operation by air carriers, air travel clubs, and certain operators for compensation and hire. Section 121.316, as amended by Amendment 121-208, requires that each turbine powered transport category airplane operated after October 30, 1991, must comply with the requirement of § 25.963(e) of this chapter in effect on October 30, 1989. Section 25.963(e) requires that in order to avoid loss of hazardous quantities of fuel (1) all fuel tank access covers located in an area where experience or analysis indicates a strike is likely must be shown by analysis or tests to minimize penetration and deformation by tire fragments, low energy engine debris, or other likely debris, and (2) all covers must be fire resistant as defined in Part 1 of this chapter.

The petitioner's supportive information is as follows:

Air Wisconsin became aware that their BAe-ATP airplanes may not be in compliance with the requirements of § 25.963(b)(2), when British Aerospace issued Service Bulletin ATP-57-3-21026A. The service bulletin was issued April 26, 1991, but did not reach Air Wisconsin until August 12, 1991. Upon receipt of the service bulletin, Air Wisconsin acted on this matter by

placing an order on August 30, 1991, to procure the required modification kits to accomplish the modification described in the service bulletin. On October 7, 1991, Air Wisconsin was advised that the necessary modification kits will not be made available until approximately November 30, 1991. Air Wisconsin would be required to carry out this modification on ten (10) airplanes prior to October 30, 1991, although the necessary kits will not be available until the November 1991 time period.

The petition states that it has not been proven that the presently installed fuel tank access covers would fail to provide the necessary level of safety and integrity required by § 25.963(e). In actuality, there is no history of damage to the subject covers while installed on the BAe-ATP airplane or on its predecessor the H.S. 748 airplane. The need to replace the covers is based on the opinion of British Aerospace engineering. As a point of interest, the service bulletin provided by British Aerospace was classified as "optional".

Accordingly, Air Wisconsin requests exemption of the BAe-ATP from the requirements of §§ 121.316 and 25.963(e)(2) be granted effective October 30, 1991 and continue in effect until January 30, 1992. Additionally, they request that the publication and comment requirements of § 11.27(c) and the 120 day advance submission requirement of § 11.25(b)(1) be waived so as not to delay action on this petition.

Air Wisconsin believes that the granting of this petition would be in the public interest in that, if it were not to be granted, Air Wisconsin would be forced to remove from service its entire fleet of BAe-ATP airplanes. This would preclude Air Wisconsin from providing the scheduled service to its traveling public until sometime after November 30, 1991.

Additional information was submitted to the FAA by the petitioner on October 29, 1991, documenting the sequence of events as described above. This information also provided a fleet modification schedule for the nine BAe-ATP airplanes that are currently in air carrier service. This schedule shows the first modification taking place during the week of November 4, 1991, followed by the remaining airplanes being modified at a rate of approximately one per week. The modifications of these nine airplanes are scheduled for completion the week of January 20, 1992. The tenth BAe-ATP airplane operated by Air Wisconsin is in the United Kingdom being modified by British Aerospace and it will be in compliance with the subject regulation when returned to service. As noted by the petitioner, the retrofit schedule is based on the expected delivery of the modification kits as indicated by British Aerospace.

The FAA finds, for good cause, that action on this petition should not be delayed by publication and comment procedures for the following reasons: (1) a grant of exemption on the BAe-ATP for three months would not create a public safety issue, and (2) delay on acting on the petition would be disruptive to the flying public and create a major economic burden on the operator.

The Federal Aviation Administration's analysis/summary is as follows:

The petitioner's request is for relief from §§ 121.316 and 25.963(e)(2). Relief from the requirements of § 121.316 is all that is applicable in this case since it is the compliance date stated in the operating rule that is the point of contention. The necessity for the petition appears to be based on circumstances beyond the petitioner's control. The petitioner was not aware of the need to modify its airplanes until it was too late to procure the needed parts and install them prior to the compliance date. This is due, in part, to the nature of the manufacturer's method of

publication and distribution of the service bulletins. This particular service bulletin was identified as "optional".

The FAA has reviewed the arguments presented by the petitioner in support of the exemption and has concluded that the arguments support his petition. The FAA is satisfied that the petitioner is making its best effort to modify the affected airplanes expeditiously. Furthermore, service history on the BAe-ATP indicates no problem with the access covers so that three additional months of operation beyond the regulatory compliance date should not compromise public safety.

In consideration of the foregoing, I find that a grant of exemption from the provision of § 121.136 is in the public interest and will not affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in § 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), an exemption is hereby granted to permit continued operation of the BAe-ATP airplanes by Air Wisconsin, Inc. until January 30, 1992, after which time the fuel tank access covers must comply with the penetration and fire resistance standards of § 25.963(e) in order to be eligible for operation under the provisions of Part 121.

Issued in Renton Washington, on October 30, 1991

Darrell M. Pederson
Assistant Manager

Transport Airplane Directorate

Aircraft

Certification Service

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